

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201022001**

Release Date: 6/4/2010

Index Number: 2055.00-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B04 – PLR-133418-09

Date:

January 11, 2010

Re:

Legend:

Decedent =
A =
B =
C =
Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =
Court =

a =
b =
c =
d =
Town =
State =

Dear :

This responds to a letter dated July 10, 2009, submitted by your authorized representative, requesting a ruling under § 2055 of the Internal Revenue Code.

Decedent died testate on Date 1. Under Articles SECOND and THIRD of the will, Decedent bequeathed his truck to A and his car to B, respectively. Article FOURTH provides that if A and B are living at Decedent's death, then the co-trustees shall set apart out of the estate and shall allocate to A and B each \$a per month, for life. Article FIFTH provides that all the rest residue and remainder of Decedent's property be transferred to A and C, as co-trustees, in trust (Trust).

Under the terms of Trust, Decedent directed the co-trustees to build several buildings for Town with the balance of the funds to be used for the upkeep of said buildings and to benefit several listed charities and “any other charitable organization” as determined by the co-trustees. If Town declines the gift of the buildings then Trust is to benefit the listed charities and “any other charitable organization” as determined by the co-trustees. It is represented that two of the listed charities are qualified exempt organizations under § 501(c)(3) and that the third listed charity is a political subdivision of State.

On Date 2, Decedent’s executor filed proceedings with Court asking Court to resolve an ambiguity as to how it would be possible to “set apart out of [Decedent’s] estate,” the lifetime payments to A and B, while also establishing in a timely manner Trust with “all the rest, residue and remainder” of the estate. Court entered an Order on Date 3. In the Order, Court concluded that Decedent intended to establish a charitable trust from the residuary estate; that Decedent’s will contained an ambiguity regarding the establishment of Trust and the general legacies to A and B; and that Decedent intended Trust to qualify for the estate tax charitable deduction under § 2055 and that Decedent intended to provide that an actuarial amount using the § 7520 interest rate for Date 5 be set apart and distributed to A and B in full settlement of the general legacies. In order to carry out Decedent’s intent, Court ordered that A be paid b and B be paid c in full satisfaction of the general legacies and that the executor fund Trust with the remainder of the estate. In addition, Court added Article ELEVENTH to the will, which clarifies the definition of “charitable organization” to mean an organization as defined under §§ 2055 and 501(c)(3).

On Date 4, the executor filed Decedent’s Form 706 (United States Estate (and Generation-Skipping Transfer) Tax Return). On Form 706, the executor reported each bequest to A and B in the amounts determined in the Order. On Schedule O of Form 706, the executor reported that the amount transferred to Trust is d, which equals the remainder of Decedent’s estate.

You have requested that an estate tax charitable deduction under § 2055 is allowed for the value of Trust.

Section 2055(a) provides that the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of all bequests, legacies, devises, and transfers to or for a corporation or certain other organizations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.

In Rev. Rul. 89-31, 1989-1 C.B. 277, the decedent died testate. Under his will,

the decedent bequeathed the residue of the estate to a trust the terms of which provided that income was to be paid to A, an individual, for A's life and the remainder was to be paid to a charitable organization described in §§ 170(c) and 2055(a). In good faith, A challenged the validity of the will, and as a result of a settlement, the estate made an immediate payment to A and distributed the balance of the trust to the charitable organization. The revenue ruling holds that the amount paid to the charitable organization qualifies for the estate tax charitable deduction under § 2055(a).

In the present case, Trust was established under Decedent's will for the benefit of various charitable organizations and a political subdivision of State. The will contained an ambiguity regarding the payment of general legacies to A and B and the establishment of Trust. The executor initiated a proceeding in Court to resolve the ambiguity. Court concluded that Decedent intended to create a charitable trust intended to qualify for a charitable deduction under § 2055 and ordered that the general legacies be determined and distributed to A and B and the remainder of the estate to be held in trust for the charities. Court further ordered that the will be clarified to indicate that Decedent intended "charitable organization" to mean an organization described in §§ 170(c) and 2055. Court's Order will be effective upon the issuance of a favorable letter ruling from the Internal Revenue Service. Based upon the facts submitted and representations made, and assuming that other requirements of § 2055 are satisfied, we conclude that Trust will qualify for the estate tax charitable deduction under § 2055.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination

Except as specifically ruled herein, we express no opinion on the federal tax consequences of the transaction under the cited provisions or under any other provisions of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Lorraine E. Gardner
Senior Counsel Branch 4
(Passthroughs and Special Industries)

Enclosure

Copy for section 6110 purposes

cc: